

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rick & Amy Bradshaw, Petitioners-Appellants, v. Pottawattamie County Board of Review, Respondent-Appellee.	ORDER Docket No. 12-78-0735 Parcel No. 7542 30 176 010
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On March 1, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Rick and Amy Bradshaw were self-represented and requested that their appeal proceed without a hearing. Assistant County Attorney Leanne Gifford represented the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

The Bradshaws are the owners of property located at 24465 Richfield Loop, Council Bluffs, Iowa. The real estate was classified residential on the January 1, 2012, assessment. It was valued at \$409,200, representing \$55,836 in land value and \$353,364 in improvement value. This was a change in value from the January 1, 2011, assessment.

The Bradshaws protested the assessment to the Pottawattamie County Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); and that there is an error in the assessment under section 441.37(1)(a)(4). Their error claim is essentially that a measurement error in the property's square

footage resulted in an excessive assessment, which is similar to an over assessment claim under section 441.37(1)(a)(2). The property's square footage was changed for the 2012 assessment, but the Bradshaws believe the reduction in value that resulted from this change did not accurately reflect the difference in measurement. They also noted that the 2012 assessment includes 1300 square feet of basement finish, which was not assessed in 2011. They asserted that no one from the Assessor's Office had ever viewed the basement, and they believe there is no basis for this assessment.

The Board of Review denied the protest.

The Bradshaws then appealed to this Board reasserting their claims. They believe the correct value of their property is \$340,343, representing \$55,836 in land value and \$284,507 in improvement value.

According to the property record card, the Bradshaws' property is a two-story, frame home built in 2000. It has 2774 square feet of above grade living area; a full basement with 1300 square feet of finish; a 988 square-foot attached garage; a 264 square-foot, open porch; and a 305 square-foot, covered deck. The subject site is 1.45-acres.

The Bradshaws listed four properties as equity comparables. They assert these properties demonstrate that an equitable assessment for their property would result in a reduction in value to approximately 87% of its current assessment. The following chart shows the information the Bradshaws provided.

Address	Date of Sale	Sale Price	2012 AV	% of AV:MV
15074 Brookside Ln	8/2007	\$384,900	\$321,138	83.43%
15146 Brookside Ln	10/2007	\$364,500	\$310,262	85.12%
22202 Stonebrook Dr	7/2011	\$337,000	\$318,250	94.44%
335 Golden Oaks Dr	8/2011	\$260,000	\$225,150	86.60%
			Average	87.40%

Two of Bradshaw's equity comparables sold in 2007. We do not find these dated sales to be reflective of a 2011 market value for those properties or useful for determining whether the subject property is inequitably assessed. The two 2011 sales indicate the assessed values are between 87% and 94% (rounded) of their sales prices or market values.

The Bradshaws also contend their property is over assessed. They provided one page of an appraisal completed by Bobbette M. Behrens of Koestner, McGivern and Associates to support this claim. They believe the June 2008 appraised value is still an accurate reflection of the January 2012 market value of their property. The page provided includes a developed cost approach concluding an opinion of \$373,559. It also indicates a value by the sales comparison approach of \$373,000. Behrens final opinion of value for the subject property is \$373,000, as of June 5, 2008. We do not consider a June 2008 value opinion to be reflective of a January 1, 2012, assessment. Because of this, we do not find it necessary to request the full appraisal.

The Bradshaws also provided another document that appears to be portions of a sales comparison analysis. We assume it is a portion of Behrens' appraisal, but we cannot confirm this because the Bradshaws' property is not included in the adjustment table. The five adjusted properties have sales dates ranging from August 2007 to March 2008. Because the document appears to be an excerpt of an appraisal that uses sales from 2007 and 2008, we give it no consideration.

As further evidence that the property is over assessed, the Bradshaws also contend that their reduction in square footage from 2011 to the 2012 assessment did not equate to a commiserate reduction in value of the property. They believe that because the square footage of the property was reduced by 388 square feet, a correct reduction in value should have been \$39,680. They arrived at this figure by determining the dollar value per square foot of the 2011 assessment. We do not find this to be a recognized method of valuation.

Turning to the claim of error, we find that the issue at hand concerns the amount of basement finish of the Bradshaws' property. The Bradshaws requested the assessor's office inspect their property because they believed it was measured incorrectly. They allowed an appraiser from the office to enter their property and verify the accuracy of the above grade living area. Apparently, while the appraiser was there, the Bradshaws refused to allow the appraiser to inspect the property's basement.

After the inspection, the assessor's office did reduce the subject property's square footage, but the 2012 assessment actually increased because 1300 square feet of finish was added to the property record card. The Bradshaws assert that they were told by the assessor's office that "the adjustment was made based on the assumption that homes in our neighborhood which are 10 years or older have finished basements." They believe this assumption, if valid, has not been equitably applied to other like properties. The Bradshaws, however, do not dispute that their property does have basement finish.

The Board of Review submitted a Position Statement for Written Consideration. It states, "When the Assessor (or an employee of the Assessor) is denied inspection of property, even after being invited by the property owner to correct an error, the assumption is that the portion of the property not inspected has more or better finish than the Assessor's records show." It further asserts the Bradshaws have the burden of proving the basement is not finished and have not done so. Finally, it indicates if the basement finish is an error, it can be easily cured by allowing an inspection.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc.*, 497 N.W.2d at 862. However, where the assessor has reassessed the property, all grounds for protest typically available in a reassessment year may be protested. *Id.* In this case, the assessor revalued the Bradshaws' property.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual

value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In this case, to prevail on an equity claim, the Bradshaws would have had to compare prior year sales prices (in this case 2011) to the current year (2012) assessments. While the Bradshaws’ evidence did provide two 2011 sales, which indicate a sale ratio range from 87% to 94%, they failed to provide evidence of the fair market value of their property.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The portions of an appraisal the Bradshaws submitted was too dated to be reliable for a January 2012 assessment. Furthermore, their attempt to calculate a reduction in their assessed value based on a reduction in the recorded square footage was not based on the market.


Regarding the Bradshaws’ error claim, we find they have failed to carry their burden. Section 441.37(1)(d) gives rise to the claim and is not limited solely to clerical or mathematical errors. The Bradshaws assert that the assessment is in error because it values 1300 square feet of basement finish. Rather than demonstrating by either inspection or photos that the subject property does not have this feature, or that its quality is less than what has been valued, they assert it was not applied to all other properties of the same age. Although the Bradshaws’ evidence supports their assertion, the statement

provided by the assessor's office is contrary to what Bradshaws claim they were told. The assessor's office asserts it assesses basement finish, or other finish, when denied an inspection even after being invited by a property owner to view a property.

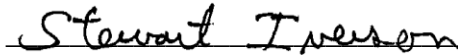
While the assessor's office cannot affirmatively verify basement finish exists, it appears that office has employed a method to attempt to gain taxpayer cooperation with the valuation process. The statement provided by the Board of Review does not provide any legal authority for using this assessment method. We note that under Iowa Code section 441.24, when a person refuses to furnish statements in connection with assessment of a property, the assessor "shall proceed to list and assess the property according to the best information obtainable, and shall add to the taxable valuation one hundred percent thereof, which valuation and penalty shall be separately show, and shall constitute the assessment." *See also* Iowa Code sections 428.1; 441.18; & 441.19 (discussing a taxpayer's duty to assist in the listing of property). To our knowledge, this tool is used infrequently as it is a very harsh penalty. In this particular case, however, it does not appear this method was used by the assessor because no actual penalty is listed on the property record card, but instead the assessor's office just valued the property as having basement finish. Even though this method may not be in complete compliance with section 441.24, now that the assessment exists, the Bradshaws have the burden of showing the property's basement is not finished in a manner and/or amount the assessment reflects. Ultimately, we find that the Bradshaws believe the basement finish is reported incorrectly they can assist in correcting this error by providing adequate entry/inspection of the basement or providing photographs showing the basement is not finished or finished to the quality that is valued.

THE APPEAL BOARD ORDERS the assessment of Rick and Amy Bradshaw's property located at 24465 Richfield Loop, Council Bluffs, Iowa, of \$409,200 as of January 1, 2012, as set by the Pottawattamie County Board of Review is affirmed.

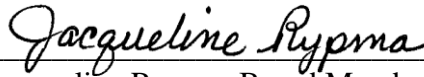
Dated this 2nd day of April, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Rick and Amy Bradshaw
24465 Richfield Loop
Council Bluffs, Iowa 51503
APPELLANT

Leanne Gifford
227 S 6th Street
Council Bluffs, Iowa 51501
ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 2, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____